IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Mrs.Poonam Gambhir Vs. State and Anr.

S.B. CRIMINAL MISC.PETITION NO.1679/2005
under Section 482 Cr.P.C.

Date of Order :- November 17, 2006.

PRESENT
HON'BLE MR.JUSTICE HARBANS LAL

Mr. Prashant Sharma on behalf of
Mr. Munish Kochhar for the petitioner.
Mr. Arun Sharma P.P. for the State.
Mr. A.K. Gupta for non-petitioner No.2.

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BY THE COURT :-

This petition under Section 482 Cr.P.C. seeks quashing of F.I.R. No.234/2003 P.S. Moti Dungari for offences under Sections 406 and 420/120-B I.P.C. inter-alia on the ground that dispute between the parties is purely of civil nature and by no stretch of imagination the same can be termed as offences u/Ss.406 and 420/120-B I.P.C.

When the matter came up for admission before this court, it was revealed that the petitioner had sought the self-same relief for quashing of F.I.R. by filing S.B.C.W.P. No.2212/2005 which has since been dismissed on 1/9/2005 by a co-ordinate Bench of this Court presided over by Hon'ble Mr.Justice K.S. Rathore observing that the dispute between the paties is of civil nature and giving liberty to the Investigating Officer to submit final report. A D.B. Civil Special Appeal No.26/2006 has been filed challenging the aforesaid observations made by the learned Single Judge in the judgment dated 1/9/2005 and the Hon'ble Division Bench of

this Court while issuing notices to the respondents has directed that the aforesaid observations shall not be taken into account in any proceeding arising out of the F.I.R. in question. It is, therefore, urged by the learned counsel for non-petitioner No.2 that this cr.misc.petition is clearly incompetent and deserves to be dismissed on the ground that the self-same relief has been sought by way of a civil writ which has been denied by dismissing the same. The same matter cannot be re-agitated by way of petition u/S.482 Cr.P.C.

Learned counsel for the petitioner could not rebut the aforesaid contention.

Having considered the submissions and the aforesaid facts and circumstances of the case, no case for quashing of the F.I.R. in exercise of inherent powers vested in this Court u/S.482 Cr.P.C. seems to be made out.

It is well-settled that the self-same relief which has been denied by the High Court in its writ jurisdiction cannot be claimed by invoking inherent powers of this Court u/S.482 Cr.P.C. which, as per the settled law, are to be and ought to be exercised very sparingly and with circumspection to prevent the abuse of the process of the court or to secure the ends of justice, which is not the case here.

Consequently, this petition u/S.482 Cr.P.C. deserves to be and is hereby dismissed.

(HARBANS LAL), J.

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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Mrs.Poonam Gambhir Vs. State and Anr.

S.B. CR.MISC.STAY APPLICATION NO.1959/2005
IN
S.B. CRIMINAL MISC.PETITION NO.1679/2005
under Section 482 Cr.P.C.

Date of Order :- November 17, 2006.

PRESENT
HON'BLE MR.JUSTICE HARBANS LAL

Mr. Prashant Sharma on behalf of
Mr. Munish Kochhar for the petitioner.
Mr. Arun Sharma P.P. for the State.
Mr. A.K. Gupta for non-petitioner No.2.

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BY THE COURT :-

Consequent upon dismissal of the main petition u/S.482 Cr.P.C., this stay application also stands dismissed.

(HARBANS LAL), J.

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